

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

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5 KAZENERCOM TOO and

6 YERKIN BEKTAYEV,

7 Plaintiffs,

8 vs.

9 EMPIRE STOCK TRANSFER, INC., *et al.*,

10 Defendants.  
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Case No. 2:14-cv-00838-RFB-VCF

**ORDER**

MOTION TO COMPEL PRODUCTION OF DISCOVERY  
(#22)

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13 Before the court is Plaintiffs' motion to compel production of discovery (#22). Defendants filed  
14 an opposition (#27) and Plaintiffs did not reply. For the reasons stated below, Plaintiffs' motion is  
15 denied as moot.

16 **LEGAL STANDARD**

17 Federal Rule of Civil Procedure 37 governs discovery, disclosures, and sanctions. In pertinent  
18 part, it states that "[o]n notice to other parties and all affected persons, a party may move for an order  
19 compelling disclosure or discovery."

20 Discovery responses must be timely. Under Rules 33(b)(2), 34(b)(2)(A), 36(a)(3),  
21 interrogatories, document requests, and requests for admissions must be answered or responded to  
22 "within 30 days after being served." Where, as here, a party fails to timely respond to requests for  
23 admissions, the "matter is admitted." FED. R. CIV. P. 36(a)(3).  
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1 If the court grants a motion to compel, then “the court must” require the party whose conduct  
2 necessitated the motion to pay the movant’s “reasonable expenses incurred in making the motion,  
3 including attorney’s fees,” unless, *inter alia*, the “circumstances make an award of expenses unjust.”  
4 FED. R. CIV. P. 37(a)(5)(A)(iii). If the court denies the motion, then Rule 37 instructs the court to order  
5 the moving party to pay the “reasonable expenses incurred in opposing the motion, including attorney’s  
6 fees,” unless “the motion was substantially justified or other circumstances make an award of expense  
7 unjust.” FED. R. CIV. P. 37(a)(5)(B).

8 Rule 37 is “flexible” and the district court’s discretion to fashion an appropriate sanction under  
9 Rule 37 is “broad.” 8B WRIGHT, MILLER, MARCUS, FEDERAL PRACTICE & PROCEDURE: CIVIL § 2284  
10 (3rd ed. 2010); *Nat’l Hockey League v. Metro. Hockey Club, Inc.*, 427 U.S. 639, 643 (1976) (*per*  
11 *curiam*).

## 12 DISCUSSION

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14 Plaintiffs’ motion requests three forms of relief: an order (1) compelling Defendants to  
15 immediately respond to Plaintiffs’ interrogatories and document requests, (2) holding that Defendants’  
16 objections are waived, and (2) issuing sanctions to the Defendant as the court deems appropriate. (Pl.’s  
17 Mot. to Compel (#22) at 2). Defendants have since responded to the request for production. This motion  
18 was filed on June 16, 2015, Defendants filed their opposition and served responses to requests for  
19 production on July 6, 2015, and Plaintiffs did not reply. The court, therefore, denies Plaintiffs’ motion  
20 to compel as moot.

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1 ACCORDINGLY, and for good cause shown,

2 IT IS ORDERED that Plaintiffs' motion to compel production of discovery (#22) is DENIED.

3 DATED this 22nd day of July, 2015.

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6 CAM FERENBACH

7 UNITED STATES MAGISTRATE JUDGE  
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